

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA

v.

Case No. 8:03-CR-77-T-30TBM

HATEM NAJI FARIZ

**MOTION TO SUPPLEMENT MR. FARIZ'S PENDING FISA DISCLOSURE
AND SUPPRESSION MOTION**

Defendant, Hatem Naji Fariz, by and through undersigned counsel, hereby respectfully requests that this Court permit Mr. Fariz to supplement his pending Second Amended Motion for Disclosure of FISA Materials and for Suppression of the Fruits of All Surveillance Conducted under FISA (Doc. 798) and Reply Memorandum to the Government's FISA Constitutionality Memorandum and Unclassified FISA Memorandum (Doc. 860), to include expressly the so-called Chicago FISAs in which Mr. Fariz is overheard. As grounds in support, Mr. Fariz states:

1. On November 24, 2004, Mr. Fariz filed his Second Amended Motion for Disclosure of FISA Materials and for Suppression of the Fruits of All Surveillance Conducted under FISA (Doc. 798). Mr. Fariz included within the subject of his motion for disclosure of the FISA materials and for suppression of the FISA intercepted communications "any and all FISA applications, orders, and intercepts where Mr. Fariz is either the target or is overheard on others' surveillance." *Id.* at 1-2. Mr. Fariz asserted that he was an aggrieved party, pursuant to the provisions of the FISA statute, 50 U.S.C. §

1801(k), both with respect to electronic surveillance where he was the target and where he was recorded in the course of others' FISA electronic surveillance. *See* Doc. 798 at 8-9 and citations therein.

2. On January 26, 2005, Mr. Fariz filed his reply memorandum. In response to the government's assertions, Mr. Fariz reiterated that he included as the subject of his motion any FISA applications and orders resulting in the government overhearing his conversations, whether or not he was the target. (Doc. 860 at 2-3).

3. While Mr. Fariz made the all-inclusive subject of his motion explicit, out of an abundance of caution, Mr. Fariz seeks expressly to include within the scope of his motion any and all FISA applications, orders, and the intercepted communications from electronic surveillance of individuals in the Chicago area or through the so-called Chicago cases. Mr. Fariz intended to include these communications in his original motion, as the government had notified the defense of the existence of this intercepts by letter dated October 28, 2004. The government did not produce the recorded conversations to the defense, however, until late February 2005, and the summaries or tech cuts of these communications were not made available until early March 2005.

WHEREFORE, Mr. Fariz seeks to supplement his pending FISA disclosure and suppression motion expressly to include the FISA applications, orders, and communications arising out of the so-called Chicago cases or investigations in which Mr. Fariz is overheard.

Respectfully submitted,

R. FLETCHER PEACOCK
FEDERAL PUBLIC DEFENDER

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of March, 2005, a true and correct copy of the foregoing has been furnished by CM/ECF, to Walter Furr, Assistant United States Attorney; Terry Zitek, Assistant United States Attorney; Cherie L. Krigsman, Trial Attorney, U.S. Department of Justice; William Moffitt and Linda Moreno, counsel for Sami Amin Al-Arian; Bruce Howie, counsel for Ghassan Ballut; and to Stephen N. Bernstein, counsel for Sameeh Hammoudeh.

/s/ M. Allison Guagliardo
M. Allison Guagliardo
Assistant Federal Public Defender